

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

STATE OF ARIZONA, ET AL,) CIVIL ACTION NO. 6:22-cv-1130
) AND RELATED CASE 6:23-cv-420
Plaintiffs,)
)
vs.) JUDGE JOSEPH
)
MERRICK GARLAND IN HIS)
OFFICIAL CAPACITY AS ACTING)
DIRECTOR OF EXECUTIVE OFFICE)
FOR IMMIGRATION REVIEW, ET AL)
)
Defendants.) MAGISTRATE JUDGE WHITEHURST

MOTIONS HEARING

Transcript of Proceedings before The Honorable
David C. Joseph, United States District Judge,
Lafayette, Lafayette Parish, Louisiana, commencing
on November 6, 2023.

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1 (Lafayette, Lafayette Parish, Louisiana; November 6,
2 2023, in open court.)

3 THE CSO: All rise. United States District Court for
4 the Western District of Louisiana is now in session, the
5 Honorable Judge David Joseph presiding. God save the United
6 States and this Honorable Court.

7 THE COURT: Please be seated. Good morning.

8 ATTORNEYS: Good morning, Your Honor.

9 THE COURT: How are y'all today?

10 MR. ST. JOHN: Very well, thanks.

11 THE COURT: We're on the record now in 22-cv-1130,
12 Arizona, et al. versus Garland, et al. Counsel please make your
13 appearances.

14 MR. ST. JOHN: Joseph Scott St. John, Deputy Solicitor
15 for the plaintiff states and State of Louisiana.

16 THE COURT: Good morning, Mr. St. John.

17 MR. ST. JOHN: Good morning, sir.

18 MS. RYAN: Erin Ryan from the Department of Justice on
19 behalf of defendants. Good morning, Your Honor.

20 THE COURT: Good morning, Ms. Ryan.

21 So I set this status conference at your request,
22 Ms. Ryan, to discuss some impasse we have at the present time in
23 our completing discovery. Just so I'm clear, the document
24 discovery has been resolved?

25 MS. RYAN: Yes, Your Honor, as far as defendants are

1 concerned, and nothing else has been raised by plaintiffs
2 indicating that there's anything remaining document-wise.

3 MR. ST. JOHN: Your Honor, there's still a motion to
4 compel open on the docket.

5 THE COURT: Right, I was going to you address that too.
6 You told me at the time that was filed that was a prophylactic
7 motion in case the issues could not be resolved.

8 MR. ST. JOHN: I think it was partially prophylactic,
9 partially affirmative. Mr. Redman handled that argument, Your
10 Honor, and I distinctly remember that.

11 THE COURT: I'm sorry?

12 MR. ST. JOHN: It was partially prophylactic and
13 partially affirmative. I can go back and look at it, Your Honor.

14 THE COURT: I haven't looked at it because I thought
15 you had filed that -- I was going to ask if we still needed to
16 address that. So what part of it do you think still needs to be
17 addressed?

18 MR. ST. JOHN: Your Honor, I'll have to go back and
19 look at it. I did not prepare on that one this morning.

20 THE COURT: Okay. Well, I haven't either, so that
21 makes two of us. All right. Well, we won't address that today
22 then. I guess from your personal knowledge, though, without
23 looking at the motion, what documents of discovery do you think
24 is remaining?

25 MR. ST. JOHN: Your Honor, forgive me, it's been five

1 months, six months. It's not on the top of my head. There were
2 some issues, document issues, and I remember we looked at them,
3 wanted the documents, and then we've moved on.

4 THE COURT: All right. This is how we left it, and I
5 think we talked about it in the conference room after our last
6 hearing. You said -- you told me that you had filed it out of an
7 abundance of caution as a prophylactic measure, but you are still
8 working with the government defendants to resolve the outstanding
9 discovery issues. That's what you told me.

10 MR. ST. JOHN: That was the prophylactic aspect. I
11 remember that, that whatever you say for the state, the same is
12 true for the government. I do recall that.

13 THE COURT: Okay. Let's do this, then. I'm going to
14 strike that motion, and you are going to look at it, and the
15 parts of it that are still relevant, if any, you just file
16 another motion.

17 MR. ST. JOHN: Understood, Your Honor.

18 THE COURT: Does that work?

19 MR. ST. JOHN: That does work, Your Honor.

20 THE COURT: All right. For the record that is
21 Doc. 168, Plaintiff States' Second Motion to Compel.

22 All right. So -- But the reason we're here today is
23 because of the -- well, two things: Number one, the 30(b)(6)
24 deposition that the defendants want to take of the State of
25 Louisiana. And to be clear, the State of Florida is not an issue

1 today?

2 MS. RYAN: That's correct, Your Honor. We're working
3 with the State of Florida to bring in deposition transcripts we
4 took of their agencies last year into this case, to save the time
5 of the parties.

6 THE COURT: Okay.

7 MS. RYAN: And we're working on stipulating to other
8 open issues in this case so that we do not anticipate any
9 depositions of the State of Florida will be needed.

10 THE COURT: And the second is the deposition experts,
11 depositions of the two experts designated by the plaintiff states
12 and the one expert designated by defendants. So those are the
13 issues that I'm aware of from reading your joint submission which
14 I appreciate time and effort put into that.

15 So, Ms. Ryan, I guess let's hear from you. This is
16 your request, and then I have -- frankly I think I know what
17 we're going to do going forward, but I'd like to hear from you
18 anyway.

19 MS. RYAN: Yes, Your Honor. We laid out our timeline
20 in our first request for this conference, as well as the joint
21 filing. We served deposition notices in August. We were told
22 that the state would get back to us with dates, and then we never
23 heard anything further.

24 Objections were then served on us saying they would not
25 be producing witnesses from the state agencies, and to the extent

1 any witnesses from the agencies did testify, it would only be on
2 behalf of the Attorney General's Office.

3 We went over this last time we were here, Your Honor,
4 about the relationship between Attorney General's office and
5 state agencies. We do not think that this is proper. We are
6 entitled to depose these state agencies about the document
7 discovery that we received and the harms that are being alleged.

8 And our position is that, until we know what that scope
9 is, as far as the witnesses, we can't have a meet and confer on
10 individual topics. We remain open to do it, but we served
11 topics, assuming the witnesses would testify on behalf of the
12 agencies. Louisiana objected on the basis that they would
13 testify on behalf of the Attorney General's Office.

14 So we're of two different minds --

15 THE COURT: Right.

16 MS. RYAN: -- as to the testimony. So it's impossible
17 to go through the topics and determine relevancy if we're coming
18 at it from two different points of view.

19 THE COURT: Right, and I think, you know, I read
20 Mr. St. John's view and I understand his as well. Look, I think
21 the actual -- I think the truth is somewhere between. Okay. Let
22 me just kind of clarify some fundamental points I think that I
23 consider crucial to deciding what to do.

24 First of all, discovery period that I've ordered is
25 limited to the states of Louisiana and Florida, and the discrete

1 programs within those states on which the plaintiffs are basing
2 their standing. Okay. And so I think some of that's been
3 resolved. Your request, for example, of the Department of Public
4 Safety has been withdrawn.

5 But the states have the burden of establishing Article
6 III standing, and we have, you know, addressed this process of
7 engaging in this jurisdictional discovery. It winnowed down the
8 bases on which the states intend to do that. Okay. Their
9 burden. They have chosen which programs. That's the confines of
10 discovery. All right?

11 Second, I ordered at the last hearing that the
12 plaintiffs conduct party discovery with the defendants as to
13 these discrete programs within Louisiana and Florida. Based on
14 the parties' briefing, it's my understanding -- and Mr. St. John,
15 I'd like you to confirm this -- that the AG's office has
16 contacted and is working with the relevant parts of the state to
17 follow that order, correct?

18 MR. ST. JOHN: That is correct, Your Honor.

19 THE COURT: All right.

20 MR. ST. JOHN: I do have to -- I cannot say that I
21 represent those entities.

22 THE COURT: No, no. Look, you've contacted them,
23 you're working with them. There's some transparency there,
24 correct?

25 MR. ST. JOHN: Correct, Your Honor.

1 THE COURT: All right. I fully understand that your
2 office, as a matter of law, within the state of Louisiana -- it's
3 not a unitary executive -- does not have the authority to control
4 agencies that report to the governor. Okay. Doesn't matter who
5 the governor is, the AG's office does not control its agency. So
6 it's a matter of control and direction. It's not like the
7 president of the United States who every line goes to him
8 eventually in the federal system. That's not how the state
9 operates, I get that.

10 But the reality is that the AG's office represents the
11 State of Louisiana in this lawsuit. They must have the ability,
12 as a practical matter, as a practical matter, if not a legal
13 matter, a practical matter to conduct reciprocal discovery as to
14 your alleged bases of Article 3 standing.

15 So I think, you know, if you are working with them, if
16 you have a working relationship with them, and you are engaging
17 in party discovery with that, using those relationships to do
18 that, I think that's sufficient. Is that what you're doing?

19 MR. ST. JOHN: That is so far what we have been doing,
20 Your Honor.

21 THE COURT: Okay. I had hoped counsel would be able to
22 work more effectively together. I think we're going to encourage
23 that process today.

24 First, let me go through the issue of the 30(b)(6)
25 deposition. Okay. I know, Ms. Ryan, you don't like the

1 disclaimer that the AG's office is only responding based on
2 information known to the AG's office. Okay. So, you know, the
3 way I view this is it's akin to any other organizational
4 defendant or plaintiff where, you know, a reasonable
5 investigation is conducted by an organization to answer questions
6 either in interrogatories or a 30(b)(6) deposition.

7 Same thing. He's made inquiries to the relevant parts
8 of the State of Louisiana to conduct discovery. Okay? So I
9 think that meets the standard. He's telling us on the record
10 that he's done so.

11 I do think, Ms. Ryan, that maybe there's a
12 misunderstanding on your part about the role of a 30(b)(6)
13 deposition in litigation. While it appears that your efforts to
14 notice the agencies responsible for the information on which you
15 would like the information -- the topics on which you would like
16 to conduct the deposition, that's really not for you to decide as
17 the requesting party.

18 In a 30(b)(6) context, the deponent, here the State of
19 Louisiana, must make a conscientious good faith endeavor to
20 designate persons having knowledge of the matter sought by you,
21 by the defendants, and to prepare those persons in order that
22 they can fully, completely, unequivocally answer the questions
23 posed as to the relevant subject matter. That's from Fifth
24 Circuit case law. Okay.

25 So you tell him, you tell the State of Louisiana what

1 topics you would like to depose somebody on. He finds the person
2 to do it. If nobody knows of those topics, then that person has
3 to educate themselves to speak for the organization here, the
4 State of Louisiana, as to these topics.

5 So your job is not to direct things to different
6 agencies. The AG's office receives the 30(b)(6) notice,
7 designates a person to respond to each of those questions. It
8 may be more than one person, but someone that has knowledge of
9 the topics on which you'd like to depose somebody, depose the
10 organizational defendant, the plaintiff in this case.

11 The duty to present and prepare a 30(b)(6) designee
12 goes beyond matters personally known to the designee or to
13 matters on which that designee was personally involved. Again,
14 it doesn't have to be from the agency. It has to be someone that
15 has access to documents, has looked at documents, reviewed them
16 and knows enough to answer questions about the scope of the
17 topic. Okay.

18 MS. RYAN: Your Honor, if I could just speak up
19 briefly.

20 THE COURT: Okay.

21 MS. RYAN: That's fine. We deposed the State of
22 Florida last year, and their agencies were unable to put forward
23 deponents unless the notice was directly addressed to those --

24 THE COURT: Yeah, yeah. I'm not saying you're doing
25 anything in bad faith. You're actually probably the way you're

1 doing it is based on your experience and trying to be helpful to
2 who would know this stuff.

3 MS. RYAN: Correct.

4 THE COURT: As a matter of law, that's not how the
5 30(b)(6) notice works. You give the topics. Mr. St. John
6 figures out who can testify to those topics --

7 MS. RYAN: Yes, Your Honor.

8 THE COURT: -- and has knowledge. And the organization
9 must prepare the designee to the extent those matters are
10 reasonably available from documents, past employees, or other
11 sources.

12 Okay. So at bottom, the 30(b)(6) deponent is the agent
13 for the State of Louisiana and speaks for it as to the noticed
14 topics. I am going to allow the defendants to take a deposition
15 of one or more persons designated by the State of Louisiana with
16 knowledge to testify about the documents produced by Louisiana
17 and the bases on which Louisiana seeks to establish Article III
18 standing.

19 Okay. Rather than go through the topics, again, this
20 is the plaintiffs' burden. Those topics on which -- Those
21 evidentiary bases on which the plaintiffs seek to establish
22 Article III standing, that is the scope of the noticed topics.
23 That's it, so --

24 MS. RYAN: Yes, Your Honor, and we will go back --

25 THE COURT: And so that requires conference. 30(b)(6)

1 requires, explicitly requires the parties confer in good faith
2 about the matters for examination. So I have no doubt that y'all
3 can figure this out. Louisiana knows what they have produced.
4 They know what their standing is going to be based on, and they
5 can prepare a deponent to answer questions on those topics,
6 right, Mr. St. John?

7 MR. ST. JOHN: Yes, Your Honor.

8 THE COURT: I mean, this isn't hard.

9 MR. ST. JOHN: I agree, Your Honor. 94 topics is hard.

10 THE COURT: No, no. I know, but what I'm doing --
11 we're doing the topics -- you're going to talk, you're going to
12 talk and you're going to figure out which ones you are actually
13 going to base standing on, and those are the topics that are
14 going to be deposed on.

15 MR. ST. JOHN: Your Honor, we would ask that the -- any
16 topics not be duplicative. Let me give you an example. Request
17 number -- Topic number one, the number of asylees in Louisiana.
18 Tentatively are under the federal government's control. What can
19 Louisiana say? We know there are thousands. And so that's kind
20 of the disconnect. I want to make sure it is targeted to what
21 Louisiana actually knows. That's my concern.

22 THE COURT: Yeah. Your obligation does not go
23 beyond -- As in any 30(b)(6) deposition, your obligation is to
24 educate the deponent --

25 MR. ST. JOHN: About what we know.

1 THE COURT: About what is known, reasonably available
2 to the State of Louisiana. That's from the knowledge and the
3 records of the State of Louisiana. And we're narrowing that,
4 we're winnowing that down to these topics on which the State of
5 Louisiana seeks to establish Article III standing.

6 So I want you not to think about what the previous
7 30(b)(6) deposition notice was. I want you to sit down and agree
8 to what the topics will be for the 30(b)(6) deposition, and then
9 pick a date to do that. Okay?

10 MS. RYAN: That's fine with defendants, Your Honor.
11 We'll go back. We can send a tentative list of topics to
12 Mr. St. John and try to have a meeting of the minds on that.

13 But I just want to be clear that when Your Honor says,
14 information known to the state, that is not just information
15 known to the Attorney General's Office, but of the state, because
16 they think there is a little bit of --

17 THE COURT: Yeah. The Attorney General's Office has
18 been, through making inquiries, gathering information, yes,
19 that's right. But I also understand the disclaimer that, you
20 know, there may be something out there that they don't know.
21 Okay. So I understand why they may have that disclaimer, but
22 they are making efforts to gather the information to prepare a
23 deponent to answer questions in this 30(b)(6) deposition. So
24 that's all that's required.

25 MS. RYAN: Your Honor, if there is something that the

1 witness or the state does not know, that is a simple question on
2 the record that the witness can say, that's not information that
3 we track, or we're open to stipulating to some of that ahead of
4 time if that is something that Mr. St. John would be interested
5 in to save even more time at the deposition.

6 THE COURT: Okay. Yeah, I think that makes a lot of
7 sense. To the extent, Ms. Ryan, you would want to depose
8 representatives of the state agencies, then third-party discovery
9 would be appropriate for that, and it's too late for that now.
10 We're past that point.

11 But if you wanted to talk to someone from the
12 Department of Health, then you could use third-party discovery to
13 do that, but that's not what a 30(b)(6) deposition does. Okay.

14 Mr. St. John, anything else?

15 MR. ST. JOHN: No, Your Honor.

16 THE COURT: So we're going to do the 30(b)(6)
17 deposition in November, and I'm going to extend the deadline to
18 file a Rule 12 motion or answer the complaint to the
19 December 15th.

20 Again, failure of the defendants to file a Rule 12
21 motion challenging Article III standing, the plaintiffs will
22 constitute waiver of the defendants' right to later raise that
23 issue. Therefore I'm granting motion for extension of time to
24 complete discovery, which is document 186, to the extent ordered
25 herein today. The new deadlines will be reflected in the

1 minutes.

2 Also, the Court will allow the parties to conduct
3 depositions of the plaintiffs, two experts, and the defendants
4 one expert. These depositions will also take place in November.
5 Okay. Just sometime in the month of November, and it's going to
6 be over before we know it because we have Thanksgiving coming up,
7 so y'all really need to get cracking on this.

8 Mr. St. John is right, this has been going on for a
9 long time, and it's time to get past this phase. Who is the
10 nonretained expert that you've designated, Mr. St. John? Who is
11 that?

12 MR. ST. JOHN: Former Border Patrol chief. He was the
13 chief of the Border Patrol at the time the rule was being
14 considered, and I think he may have been out of office when it
15 went into effect.

16 THE COURT: What's his name again?

17 MR. ST. JOHN: Chief Rodney Scott.

18 THE COURT: Chief Rodney Scott. That's a nonretained
19 expert. Who is the retained expert?

20 MR. ST. JOHN: Former Immigration Judge Art Arthur.

21 THE COURT: And Ms. Ryan, who is the doctor that you've
22 designated?

23 MS. RYAN: Professor Michael Clemens, C-L-E-M-E-N-S.

24 THE COURT: Who is he?

25 MS. RYAN: He's a professor, and he looked at the

1 statistics. I forget his exact title. I apologize, Your Honor.

2 THE COURT: Immigration statistics?

3 MS. RYAN: Yes.

4 THE COURT: Where is he employed?

5 MS. RYAN: Off the top of my head, I believe he's at
6 Georgetown, but I haven't looked through his resume in a little
7 bit.

8 THE COURT: That's fine. I was just wondering what
9 these people did. Okay. Anything else? I really just want
10 y'all to sit down, get dates together. I don't see that there's
11 any need for posturing.

12 This is, you know, at bottom plaintiffs' burden to show
13 standing, Article III standing on the topics, on certain topics,
14 discrete topics for these two states, and I just think it's not
15 impossible to do. So I urge y'all to get together and do it.
16 Any problems doing it in November?

17 MR. ST. JOHN: None for me, Your Honor.

18 MS. RYAN: I don't believe so, Your Honor, but I know
19 some witnesses may have vacation plans around Thanksgiving, so I
20 think it will depend on who the specific deponents are to make
21 sure we can get them all on the calendar.

22 THE COURT: Well, it's just four. It's probably just
23 four unless Mr. St. John designates more than one person.

24 MS. RYAN: Correct. We're not sure how many will be
25 designated for the state.

1 THE COURT: Can we do it -- can y'all do it by zoom or
2 something like that?

3 MS. RYAN: That is our intention to do it all
4 virtually, but we also they should be sequenced. Plaintiffs have
5 said that their experts will rely on the factual discovery. So
6 the agency depositions need to happen before the expert
7 depositions can happen.

8 THE COURT: Mr. St. John, have you figured out who is
9 going to testify for the state?

10 MR. ST. JOHN: Yes, Your Honor.

11 THE COURT: You have? Who is that going to be?

12 MR. ST. JOHN: Your Honor, I'd prefer not to reveal
13 that in open court. Is Your Honor directing me to?

14 THE COURT: Well, I don't understand the need for
15 secrecy.

16 MR. ST. JOHN: I'm not obligated under the rules to
17 reveal the identity of my 30(b)(6) prior to the deposition.

18 THE COURT: I gotcha.

19 MR. ST. JOHN: And I say that because when people do it
20 to me, I just call up that person and figure out what they have
21 said in the past, and it radically changes the course of the
22 deposition.

23 THE COURT: Okay. I guess I haven't -- I guess I've
24 never seen that issue come up before. I've always known who the
25 designee is going to be in a 30(b)(6) deposition.

1 MS. RYAN: Your Honor, we've never encountered that
2 either. We don't usually have an issue with just telling us who
3 the deponent will be.

4 THE COURT: Are you worried -- I mean, you know, the
5 scope of the deposition is not going to be based on that person
6 individually. That would be out of bounds if they were to try to
7 attack past statements of that person because they are not
8 testifying for the person, they are testifying for the
9 organization.

10 MR. ST. JOHN: We're going to use Mr. Arthur in a dual
11 capacity, both as expert and as 30(b)(6), and I'll tell you the
12 reason for that is we have a immigration judge on staff. The
13 Louisiana Department of Justice's knowledge of immigration issues
14 is actually somewhat substantial. The former chief immigration
15 judge is General Landry's personal counsel. So how do I
16 duplicate that? I use another immigration judge.

17 MS. RYAN: Your Honor, what I'm hearing is another
18 immigration judge, but not Judge Arthur. If Judge Arthur doesn't
19 have a connection to the State of Louisiana and he's been
20 retained as an expert --

21 MR. ST. JOHN: That's my choice, Your Honor. I can
22 designate anyone I choose.

23 THE COURT: Okay. You better make sure he knows what
24 he's talking about, about all the stuff produced by Louisiana and
25 about the bases of Article III standing.

1 MR. ST. JOHN: Yes, Your Honor.

2 THE COURT: But you --

3 MR. ST. JOHN: -- made a report on it, and we've had
4 setup prep sessions for the agencies for him, and that goes to
5 the question of --

6 THE COURT: Okay. So you are preparing him -- the
7 agencies at issue are preparing him to answer questions based on
8 the knowledge of the state of Louisiana.

9 MR. ST. JOHN: To a reasonable degree, Your Honor. Is
10 he going to know, like, who is the clerk, what is her process,
11 no, he's not. Is he going to know these are our policies, this
12 is how we operate, this is a document reflecting that policy,
13 sure, that's the expectation.

14 MS. RYAN: Your Honor, just to clarify. We intend to
15 use documents that they have produced from these agencies and ask
16 detailed questions. What does that mean? What is this
17 abbreviation? What is this showing? How is this data collected?
18 We just want to make sure because Louisiana has offered some
19 witnesses only to authenticate documents. We do not think that's
20 proper. They should be able to speak to the contents, and so if
21 they are employing Mr. Arthur to do that, we want to make sure he
22 is well versed on all the productions which were very voluminous
23 in this case.

24 THE COURT: That's the state's obligation. So if
25 something comes up in the 30(b)(6) deposition and y'all need to

1 call me, you can do it. But I have to take Mr. St. John at his
2 word that he's going to prepare this person to be able to answer
3 the questions.

4 MR. ST. JOHN: Your Honor, this is why I was concerned
5 about revealing it. We now have a --

6 THE COURT: I'd rather have it now than have a big
7 surprise and then we're here again.

8 MR. ST. JOHN: Well, no, cause what is going to happen
9 is the defendants are going to have a deposition, and they are
10 going to say, Oh, you didn't know on page 327 what this
11 abbreviation meant. That's not what a 30(b)(6) is supposed to be
12 for.

13 I'm concerned about this whole process. Here we are at
14 10 months of discovery, and it's, Oh, you know, I don't -- maybe.
15 Maybe they mean something, have a different standard for this
16 word. That's not the purpose of this, Your Honor, and that's my
17 concern. This has been a 10-month fishing expedition. Here we
18 are at 30(b)(6).

19 THE COURT: It's not a fishing expedition. It's not a
20 fishing expedition. It's -- the fact that we're having all these
21 problems tells me we are doing exactly what needs to be done to
22 make sure we have standing to proceed.

23 But Ms. Ryan, don't play games. The scope of the
24 questioning is based on what they are using to establish Article
25 III standing, not on a bunch of nonsense. Don't try to make

1 their deponent act like he doesn't know anything. That's not
2 what we're doing here. We're trying to get through this phase of
3 discovery, and then you are going to brief the issue, a 12(b)(1)
4 motion for a standing order to decide that.

5 MS. RYAN: Your Honor, my team and I are not here to
6 waste our own time. We don't want to ask more questions than is
7 necessary. We just want to make sure we are getting a deponent
8 with sufficient knowledge of these injuries.

9 THE COURT: Okay. Well, I'll leave y'all to it.

10 I don't think -- I think it's better that we talked
11 about this now, Mr. St. John. You can designate someone that has
12 knowledge, and you are choosing this person, and that's fine.
13 Just make sure that he knows what he's talking about.

14 MR. ST. JOHN: Yes, Your Honor.

15 THE COURT: All right. Court's in recess.

16 (Hearing concluded.)

17 * * * * *

18 C E R T I F I C A T E

19 I, Cathleen E. Marquardt, RMR, CRR, Federal Official Court
20 Reporter, do hereby certify this 13th day of November, 2023, that
21 the foregoing pages 1-21 constitute a true transcript of
22 proceedings had in the above-entitled matter.

23 /s/ Cathleen E. Marquardt
24 Federal Official Court Reporter
25